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Paper No. 12

MAILED

AUG 31 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,399,311 :
Issue Date: June 4, 2002 :
Application No. 09/783,836 :
Filed: February 14, 2001 :
Attorney Docket No. **9596.92U1 (K1757)** :

This is a decision on the petition under 37 CFR 1.378(c), filed August 4, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under §3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Kathryn A. Donohue) was ever given a power of attorney to act on behalf of inventors Peter F. Davies and Denise C. Polacek, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay. If petitioner is signing on behalf of the assignee, compliance with 37 CFR 3.73(b) must satisfy the provisions of 37 CFR 3.73(b).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:

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Post Office Box 1450
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By hand: U. S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-4584.

A handwritten signature in black ink, appearing to read 'JoAnne Burke', is written over the printed name.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Kathryn A. Donohue
3160 Chestnut Street, Suite 200
Philadelphia, PA 19104